

chapter 8

Petroleum Storage Tanks



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Program Assistance

Air emissions—For information on air requirements for systems utilized in the treatment of petroleum-contaminated soil or groundwater, contact the Chemical Section of New Source Review Permits at 512/239-1283.

Automotive waste recycling—For information on automotive waste recycling regulations applicable to the handling and storage of used oil, contact the Used Oil and Used Oil Filter Recycling Unit at 512/239-6695.

Certification—For assistance with certification and licensing for companies or individuals who perform the installation, repair, modification, maintenance, and removal of regulated underground storage tank (UST) systems or who perform remediation activities at leaking petroleum storage tank (LPST) sites, call Occupational Certification at 512/239-0530.

Construction notifications—For questions on UST construction or aboveground storage tank (AST) installation notifications, contact Technical Services at 512/239-2182.

Emergency spills—For assistance with emergency petroleum or hazardous substance spills, call the Environmental Emergency Hot Line at 1-800-832-8224.

Financial assurance and reimbursement—For assistance with post-payment audits of reimbursement claims from the Petroleum Storage Tank Remediation Fund (PSTRF) or financial assurance requirements, contact Administrative Audits and Financial Assurance at 512/239-6246.

Inspections—For information about on-site investigations of regulated UST or AST systems, call Field Operations at 512/239-0400.

Petroleum storage tank enforcement issues—For questions on compliance issues, contact Enforcement at 512/239-2126.

Preapproval questions—For information on responsible party preapproval or corrective actions on LPSTs, contact Responsible Party Remediation at 512/239-2200.

Reimbursement—For questions on claims for reimbursement from the PSTRF, disputes, or reimbursement guidelines, contact Reimbursement at 512/239-2001.

Runoff—To prevent runoff from stored, removed USTs, call Watershed Management-Pretreatment at 512/239-4563.

Special wastes—For assistance with soils contaminated with nonpetroleum hazardous substances and petroleum-contaminated soils destined for disposal in a landfill, contact Waste Evaluation at 512/239-6833.

Tank registrations—For questions on how to register a tank, fees, certificates, or tank status, contact Registration at 512/239-2160.

Technical standards—For questions on technical requirements for the installation, repair, modification, maintenance, or removal of UST systems, and for questions on technical rule variances or construction notification requirements, contact Technical Services at 512/239-2182.

Water wells—For information on petroleum UST and public drinking water supply well requirements, call Water Utilities, Public Drinking Water Section, at 512/239-6020.

Levels of Authority

FEDERAL

The EPA is authorized to develop and administer a regulatory program for underground storage tanks (USTs) under Subtitle I of the Resource Conservation and Recovery Act (RCRA). The EPA recognizes the TNRCC program in lieu of federal regulatory requirements. The EPA retains authority to take enforcement actions pursuant to Texas statutes and TNRCC rules, and has the authority to withdraw program approval (and re-establish the federal program) if the TNRCC does not effectively administer and enforce the provisions of the approved state UST program.

EPA Region 6, Dallas, is responsible for overseeing the Spill Prevention Control and Countermeasures Plan (SPCC) and secondary containment, which are required under Title 40 CFR Part 112 for any petroleum UST over 42,000 gallons in capacity; any petroleum AST that has a volume greater than 660 gallons for a single tank; or any facility containing more than one petroleum AST in which the total volume of the ASTs exceeds 1,320 gallons. The EPA Region 6 office may be reached at 214/665-2277.

STATE TNRCC

State laws grant the TNRCC the authority to regulate ASTs and USTs. The Texas Water Code (TWC) Chapter 26 Subchapter I authorizes the TNRCC to operate a regulatory program for UST and AST systems storing petroleum and hazardous substances and a reimbursement program for corrective action. Subchapter K authorizes the TNRCC to register UST contractors and license UST installers and on-site supervisors. For information on the UST and AST regulations, call the PST Division at 512/239-2106

Texas Commission on Fire Protection

Local fire marshals should always be contacted on rules and regulations affecting USTs and ASTs at retail stations or at any other site where human health and safety might be a concern. The state Fire Marshal's Office (512/918-7100) may be contacted if the name and number of a local fire marshal is needed or if questions arise with regard to rule interpretation.

Texas General Land Office (GLO)

The GLO Oil Spill Division (512/475-1575) has jurisdiction, under the Texas Oil Spill Response Act of 1991 (OSPRA), over petroleum USTs or ASTs along the coast that present the potential for affecting coastal waters.

Railroad Commission of Texas (RRC)

Tanks, liquid traps, gathering lines, or other facilities used in connection with an activity associated with the exploration, development, or production of oil, gas, or geothermal resources are regulated by the RRC Oil and Gas Division (512/463-6887), and are exempt from TNRCC regulation.

Texas State Comptroller of Public Accounts

The comptroller's Fiscal Management Division (512/463-4903) oversees the fuel surcharge bulk facility payments, which are dedicated to the Petroleum Storage Tank Remediation Fund (PSTRF).

LOCAL

Local officials should always be contacted with regard to any UST or AST system regulated by any of the listed agencies to determine whether local regulations might be stricter than state or federal requirements in given areas. If local regulations are stricter, they prevail over state or federal requirements unless their measures are prohibited by state or federal law.

Program Requirements

TANK REGISTRATIONS

UST Registration

A UST is a single tank or any combination of underground tanks and underground connecting pipes used to contain a regulated substance if the volume of the portion of the tank or tank system below the ground exceeds 10 percent of the total volume of the tank system. Regulated substances include gasoline, diesel, used oil, jet fuel, other petroleum substances, acetone, methyl ethyl ketone, and other chemicals listed under the Comprehensive Environmental Response Compensation and Liabilities Act (CERCLA) Chapter 101(14).

Owners of certain USTs existing on or after September 1, 1987, are required to register their tanks with the TNRCC unless they were emptied and filled in place before January 1, 1974. Tanks that are empty or unused still must be registered.

UST registration is not required for:

- ▼ tanks containing petroleum substances that are not liquid at standard temperature (32°F) and pressure (1 atm);
- ▼ farm or residential tanks with a capacity of 1,100 gallons or less;
- ▼ heating oil tanks;
- ▼ septic tanks;
- ▼ flow-through process tanks;
- ▼ sumps with a capacity less than 110 gallons;
- ▼ hydraulic lifts (remain subject to release reporting and cleanup action).

AST Registration

Some ASTs must also be registered. Regulated ASTs include those with a capacity greater than 1,100 gallons that store petroleum products, including gasoline, diesel, kerosene, gasohol, aviation gasoline, and distillate fuel oil. Registration is not required for ASTs containing lubricant oil or jet fuel.

Registration Forms

To register a tank, request either a TNRCC UST Registration Form (form No. TNRCC-0724) or a TNRCC AST Registration Form (form No. TNRCC-0659) from PST Registration at 512/239-2160. These forms are also used to amend registered tank information when a tank's status changes. Tank owners should submit an amended registration form, signed and dated, within 30 days of any change.

Registration Response Times

The following are general TNRCC response time frames for standard registration activities or requests for assistance:

- ▼ New facilities are registered within two days of receipt.
- ▼ Registration certificates are issued four to five weeks after registration.
- ▼ Amendments to registrations are processed as soon as possible, but can take as long as three months, depending on workloads (most forms are processed within three weeks of receipt).
- ▼ Fees are invoiced annually. Most owners will receive an invoice the first of each fiscal year, and supplemental billings may occur as often as once a month afterward.
- ▼ Phone calls are returned within 24 hours.
- ▼ Requests for information by phone usually receive same-day service. If a records search is required, the response may take a few days.

OTHER REQUIREMENTS

Technical Requirements

The Technical Services Section is responsible for assuring the proper design of new UST systems and the proper retrofit of existing ones by responding to verbal and written requests for technical assistance from UST owners, related industry, TNRCC staff, and other state, federal, and local governmental entities. Technical Services also reviews requests for variances from the technical requirements of the rules, and decides when to grant them. In addition, Technical Services receives, processes, files, and tracks all

notifications of UST and AST construction and receives, files, and tracks documentation related to other activities (such as compliance evaluation inspections) at UST systems that are not LPST sites.

Financial Assurance

Any facility not covered under the PSTRF (that is, any facility not under active remediation) must have an alternative mechanism for financial assurance, such as pollution insurance. Failure to have and maintain proper financial assurance may subject the owner of a tank to administrative and civil penalties, risk of court-ordered closure of the tank system, and possibly, in extreme cases, criminal prosecution. For assistance with financial assurance requirements, contact Financial Assurance at 512/239-6239.

Air and Water Regulations

In addition to the storage tank requirements noted above, the removal or installation of a storage tank must also be evaluated for any impact on air quality. No action can legally result in a condition of nuisance smoke, odor, dust or aerosol, cause a traffic hazard, or contribute to a condition of air pollution. Reports of or complaints about nuisance conditions should be made to your TNRCC regional office (see Chapter 1).

There may also be specific air or water regulations that affect the operation, installation, or removal of a PST. For information on air regulations, contact New Source Review Permits at 512/239-1240.

Emergency Spills

Regulations for spills from certain USTs and ASTs are outlined in 30 TAC §334.75, "Reporting and Cleanup of Surface Spills and Overfills." Owners and operators of UST systems must contain and immediately clean up a spill or overfill, report the event to the TNRCC within 24 hours, and begin corrective action in accordance with 30 TAC §§334.76-334.81.

Spills include:

- ▼ any spill or overfill of petroleum that results in a release to the environment that exceeds 25 gallons, or that causes a sheen on nearby surface water; and
 - ▼ any spill or overfill of a hazardous substance that results in a release to the environment that equals or exceeds its reportable quantity under CERCLA (40 CFR Part 302).
- Owners and operators of UST systems must contain and immediately clean up a spill or overfill of petroleum that is less than 25 gallons, and a spill or overfill of a hazardous substance that is less than the reportable quantity under CERCLA. If cleanup cannot be accomplished within 24 hours, owners and operators must immediately notify the TNRCC. Refer to Chapter 19, "Emergency Response," for more information on reporting spills, or call Emergency Response at 512/239-2507 or your regional office for assistance during regular business hours. To report a spill after hours, call the Environmental Emergency Hot Line at 1-800-239-8224.

FEES AND REIMBURSEMENT

Fees

The Texas Water Code (TWC; §26.358) authorizes the TNRCC to assess annual storage tank contractor, tank installer, and tank registration fees, which are deposited in the Storage Tank Fund. Revenue from this fund:

- ▼ supports corrective actions on leaking petroleum storage tanks (LPSTs);
- ▼ provides matching funds for grants and contracts under TWC Subchapter I; and
- ▼ pays administrative, inspection, enforcement and other costs associated with carrying out the duties and purposes of Subchapter I.

Reimbursement

The Petroleum Storage Tank Remediation Fund covers the expenses of corrective action taken in response to a release of:

- ▼ petroleum products from a PST;
- ▼ hydraulic fluid from a hydraulic lift system located at a vehicle service and fueling facility; or

- ▼ spent oil from spent oil tanks located at a vehicle service and fueling facility, provided that the tank is also subject to regulation under Subchapter D (see 30 TAC §§334.71–334.85).

Eligibility

In order to be eligible for this program, an owner or operator must meet the following criteria:

- ▼ They must own or operate a regulated PST system.
- ▼ They must have registered their tanks with the TNRCC by December 31, 1995, unless the tank was unknown and was discovered while upgrading, during a site assessment, or during construction in the right-of-way, or was unknown and was not indicated by the title search and previous use of the property. (Tanks installed after December 1, 1995, must have been registered within 30 days of their completion.)
- ▼ They must have paid all annual tank fees since September 1, 1987.
- ▼ They must report releases to the TNRCC before December 22, 1998. The TNRCC must also confirm those releases by December 22, 1998.
- ▼ All corrective actions and costs must be approved in writing by the TNRCC. Reimbursement claims for corrective action taken without written pre-approval will be processed after all claims for pre-approved activities have been paid. (Some activities require the seal and supervision of a registered and duly licensed professional engineer.)
- ▼ The tank must contain a petroleum product (as defined in 30 TAC §334.322).

Corrective actions for spent oil tanks and hydraulic lift systems are reimbursable if the release meets eligibility requirements similar to those for gasoline or diesel storage tanks. The release must also have occurred at a vehicle service and fueling facility where the system was used in conjunction with and contemporaneously with that facility.

Application Review

The TNRCC must receive the original completed application to initiate the reimbursement review process. All applications for reimbursement must be filed by certified mail, return receipt requested; express mail or other overnight delivery service, return receipt requested; or hand delivery to the appropriate offices.

The original application, including all required documentation and any overdue fees and registration information should be submitted to:

TNRCC Petroleum Storage Tank Division
Reimbursement Section MC-139
PO Box 13087
Austin TX 78711-3087

Upon receipt of an application for reimbursement of corrective action costs, the TNRCC will:

- ▼ perform an administrative screening;
- ▼ conduct a technical review;
- ▼ conduct a financial review;
- ▼ verify through the TNRCC inspections that the activities to be reimbursed have been performed;
- ▼ verify that all tank registration fees are paid.

For more information on reimbursement eligibility, application forms and assistance, contact the Reimbursement Section at 512/239-2001.

Enforcement

INSPECTIONS

The TNRCC conducts inspections of PST facilities to ensure compliance with applicable state requirements. A general description of the inspection process is outlined in Chapter 3. For more information on inspections, contact Field Operations (512/239-0400) or your regional office (refer to Chapter 1).

Types of Inspections

There are several types of inspections of PST systems. A system may be inspected for any of the following reasons.

Imminent endangerment response—

Response to and abatement of impending threats to human health and the environment caused by PSTs.

Tank removal—The observance of the removal of a PST system from the ground and the completion of associated documentation. This inspection can be conducted at any time during various stages of the system removal or immediately after the removal is complete.

Tank installation—The observance of the installation of a PST system and the completion of associated documentation.

Tank upgrade—The observance of various types of PST system upgrades and/or additions to an existing PST system and the completion of associated documentation.

Leak detection—A compliance evaluation inspection for leak detection on a PST system containing a regulated substance.

Leak detection inspection follow-up—A re-inspection of an LPST site where violations were documented and where compliance is being confirmed or further technical assistance is required.

Review of Records

The inspector may examine any records, documents, plans, and reports that are required. Depending upon the release detection method employed, the inspector may inspect the following records:

- ▼ required release detection records;
- ▼ record of the last two line leak detector performance tests;
- ▼ record of the last two tank and piping tightness tests;
- ▼ inventory volume measurements;
- ▼ monthly reconciliation of books;
- ▼ inventory control records for the past year;
- ▼ maintenance records;
- ▼ documentation for the calibration and maintenance of automatic gauging systems;

- ▼ water well driller's report for each groundwater monitoring well;
- ▼ installation records for interstitial monitoring systems.

Visual Inspection

A tour of the site provides the inspector with a better understanding of its operations. The inspector may check the following items, among others:

- ▼ any tank to determine whether it is presently in use;
- ▼ whether spill and overfill prevention equipment is present and functioning on all USTs;
- ▼ whether dispenser pump has a current calibration sticker;
- ▼ whether the gauge stick, if it is used, is marked legibly and can determine the product level to 1/8 inch over the full range of the tank's internal height;
- ▼ whether the gauge stick is long enough to reach the tank bottom, and has ends that are flat, not worn down;
- ▼ whether any other measuring devices are capable of measuring the level of the stored substance to 1/8 inch over the full range of the tank's internal height;
- ▼ whether an appropriate calibration chart is used to convert product level height to gallons;
- ▼ whether the well is clearly marked and secured to prevent unauthorized access;
- ▼ whether the well is equipped with a liquid-tight cover;
- ▼ whether the well is free of debris.

FORMAL ENFORCEMENT

A summary of the general enforcement process is provided in Chapter 3. Contact your regional office immediately for information on handling any violations or to request technical assistance. As noted in Chapter 3, the TNRCC has no latitude for lenience with air quality violations: By state law, either the violation is resolved within

30 days from receipt of a NOV or the matter is referred to the central office for formal enforcement proceedings. Other types of violations concerning PST systems are handled in the following manner.

Mandatory Responses

If UST violations are noted during the inspection, the inspector will generally issue a standardized NOV to the owner, and may simultaneously refer the case to the Enforcement Division in Austin for consideration of formal enforcement action. It is mandatory that the case be referred for consideration of formal enforcement if certain release detection violations are noted during the inspection. The TNRCC regional office should be contacted to determine the seriousness of the offenses, time frames for compliance, and whether a referral to the central office is warranted.

In Addition

FREQUENTLY ASKED QUESTIONS

If the subrogation contract is signed by the applicant and returned to the TNRCC, can I protest or recover any disallowed or withheld items?

Yes. The contract is only an agreement between the TNRCC and the applicant for the amount approved and not the total amount requested. The contract should be signed and returned to the TNRCC along with the Payee Identification Form so that a check can be processed. The protested amount will be re-evaluated at a later date. The Fund Payment Response Form must be submitted within 45 days. The withheld items are not subject to the 45-day deadline. Contact Reimbursement at 512/239-2001 for assistance with any questions.

Can an application for reimbursement be submitted at any time?

No. The application should only be submitted at the end of a work phase or on an annual schedule.

Are claims that only include tank removal and no corrective action reimbursable?

No. To be eligible for reimbursement, tank removals must be necessary for the performance of corrective action. For cases where it is not obvious, the reimbursement coordinator will work with either the responsible party remediation coordinator or regional inspector to determine whether corrective action is warranted at the site.

How do I qualify for the State-Lead Program?

Admission to the State-Lead Program is limited to responsible parties who are financially unable to perform corrective action, parties who are unwilling to perform necessary corrective action, or sites where the responsible party is unknown. For information about financial review or admission under one of the other criteria, call the State-Lead Remediation Section at 512/239-2120.

Are city and county governmental bodies required to comply with state UST and AST regulations the same as other regulated entities?

Yes.

Do I have to remove my UST from the ground by December 22, 1998?

The law does not require you to remove the UST by December 22, 1998, but that is the deadline by which all USTs in existence prior to December 22, 1988, must comply with corrosion protection regulations. Any tank not brought into compliance with this upgrade deadline (or any other deadline that has already passed) is subject to administrative penalties of up to \$10,000 per day of noncompliance.

Are there any statewide secondary containment requirements for USTs?

Yes. All nonpetroleum hazardous substance tanks installed in Texas after December 22, 1988, must have secondary containment on installation, and those installed on or before that date must add secondary containment by December 22, 1998.

What kinds of tanks are allowed for new UST systems?

If they meet industry specifications, fiberglass tanks, composite tanks (steel with fiberglass coating), and steel tanks equipped with cathodic protection are all allowed under TNRCC regulations.

What kind of piping is allowed for new UST systems?

If they meet industry standards, steel piping with cathodic protection and fiberglass piping are allowed.

SIGNIFICANT LAWS AND REGULATIONS

The following is a brief summary of the federal and state laws and regulations relating to PSTs. Please refer to the official rules for specific questions regarding compliance and applicability. See “Publications” or “Online Services” in Chapter 2 for more information about obtaining copies of the agency’s rules.

Federal Law

RCRA Subchapter I

- ▼ Authorizes the EPA, states, and territories to develop and administer comprehensive regulatory programs for UST systems storing petroleum and hazardous substances
- ▼ Requires financial assurance for owners of petroleum USTs
- ▼ Establishes a \$500-million Leaking UST Trust Fund to assist with the cleanup of releases

Federal Regulation

40 CFR Part 280

- ▼ Establishes technical standards and corrective action requirements
- ▼ Defines owner and operator requirements for notification, technical standards, corrective action, and financial assurance

State Law

Texas Water Code Chapter 26 Subchapter I

- ▼ Authorizes a comprehensive regulatory program for UST systems storing petroleum and hazardous substances
- ▼ Permits a limited regulatory program for ASTs storing motor-fuel-type petroleum products
- ▼ Establishes a limited reimbursement program, with funds to be paid from the PST Remediation Fund
- ▼ Authorizes the registration of UST contractors and the licensing of installers and on-site supervisors who install, remove, or repair UST systems
- ▼ Authorizes the registration of corrective action specialists and project managers who conduct storage tank remediation projects

State Regulation

30 TAC Chapter 334

- ▼ Implements the provisions of federal and state statutes regulating PSTs
- ▼ Establishes registration, administrative reporting, and record-keeping requirements for regulated USTs and ASTs
- ▼ Sets annual facility fee assessments for in-service USTs and ASTs
- ▼ Sets technical standards for new and existing USTs, including standards for tank system design; installation, repair, and removal; tank spill containment and overfill prevention; release detection; and corrosion protection
- ▼ Establishes release reporting, site assessment, and corrective action for releases from USTs and ASTs, including procedures for risk-based corrective action determinations